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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,426	10/07/2003	Edward J. Sare	07811.0018-00	3471

22852 7590 07/08/2005

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EXAMINER

SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,426

Applicant(s)

SARE ET AL.

Examiner

David Sample

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040218; 20040309
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Beall et al. (US Patent No. 6,214,437).

Beall et al. discloses a honeycomb ceramic material made by sintering a mixture of kaolin clay and calcined kaolin clay containing 10.6 and 18.5% mullite. See col. 5, lines 12-16, and Table 5, Examples 10C-22.

As to the LOI recitations of claims 2, 3, 31, 32, 57, and 58, the LOI property is assumed to be inherent to the Glomax LL clay employed by the reference (see col. 4, line 17) in view of the “Material Safety Data Sheet” prepared by Dry Branch Kaolin which shows that the clay contains less than 1% water (see Section II of the Data Sheet). See also MPEP 2112.

The recitations of claims 5 and 6 are assumed to be inherent to the reference in view of the disclosure of a mean particle size of 1.6 μm as disclosed by the reference. See col. 4, line 17 of the reference.

The recitations regarding silica content in claims 11, 12, 36, 37, 61 and 62 are assumed to be inherent to Beall et al. because the Material Data Sheet discloses that Glomax II contains no silica. See Section V of the “Material Safety Data Sheet” prepared by Dry Branch Kaolin.

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As to claims 21-24 and 46-51, the reference does not specifically state that the inclusion of calcined kaolin and kaolin results in modifying/increasing the casting rate/filtration rate. However, the composition of the reference is identical to the claimed composition. Thus the property of modifying/increasing the casting rate is assumed to be inherent to the reference. See MPEP 2112.

The recitations of claims 25, 26, 55 and 56 can be found in the reference at col. 4, lines 26-36.

As to the "filter cake" recitation in the preamble of claims 29-45, the term "filter cake" appears to be a process limitation in a product claim in that the recitation defines how a ceramic body is formed, i.e., slip casting or filtration, rather than by the characteristics of the product itself. For purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. In the present case, the structure implied by the steps is a ceramic green body. The reference discloses such product at col. 4, lines 28-36.

Similarly, claims 39-44, 53, 54, 64-67 contain recitations which define the product by how the product was made rather than by the characteristics of the finished product. In these claims, the recited steps imply a structure having a ceramic structure and containing the composition recited in claims 29 and 52. The reference suggests such a product.

Conclusion

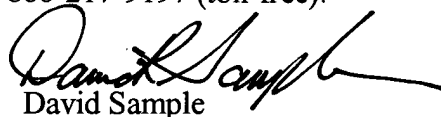
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Sample
Primary Examiner
Art Unit 1755